

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/NL2005/000060

International filing date (day/month/year)
27.01.2005

Priority date (day/month/year)
27.01.2004

International Patent Classification (IPC) or both national classification and IPC
G01N21/90

Applicant
HEINEKEN TECHNICAL SERVICES B.V.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/NL2005/000060

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/NL2005/000060

**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or
industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	2,3,5-7,10-16,19-23
	No: Claims	1,4,8,9,17,18
Inventive step (IS)	Yes: Claims	
	No: Claims	1-23
Industrial applicability (IA)	Yes: Claims	1-23
	No: Claims	

2. Citations and explanations

see separate sheet

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/NL2005/000060

AP20 Rec'd PCT/PO 26 JUL 2005

Re Item V.

- 1 Reference is made to the following documents:
 - D1: EP-A-0 872 724 (LOGICS & CONTROL S N C DI LOTT) 21 October 1998 (1998-10-21)
 - D2: EP-A-1 241 467 (HITACHI ENGINEERING CO., LTD) 18 September 2002 (2002-09-18)
 - D3: WO 03/042673 A (AKKERMAN JENSEN PETER ; ENDTZ FREDERIK NICO (NL); HEINEKEN TECH SERVIC) 22 May 2003 (2003-05-22)
 - D4: WO 97/04887 A (COORS BREWING CO) 13 February 1997 (1997-02-13)
 - D5: US-A-6 067 155 (RINGLIEN JAMES A) 23 May 2000 (2000-05-23)

- 2 **INDEPENDENT CLAIMS 1 and 17**
 - 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1 and 17 is not new in the sense of Article 33(2) PCT. Document D1 (EP0872724) discloses (the references in parentheses applying to this document):
 - 2.2 **Claim 1:** Device *suitable* for detecting the possible presence of contamination of a container (Column 1, lines 8-12) with a decorative exterior (Column 6, lines 22-28), for liquids such as a drink such as beer or a soft drink, comprising:
 - irradiating means (14) for irradiating the container with at least a first wavelength,
 - recording means (13) for recording a radiation sample of radiation during interaction of the radiation with at least a part of the container,
 - orientation determining means (PLC) for determining the orientation of the container relative to the recording means (Column 6, lines 40-43)
 - comparing means (PLC) for comparing the sample to a predetermined reference, matching the orientation of the container relative to the first recording means during the recording (Column 6, lines 41-43).
 - 2.3 **Claim 17:** As the recording means described in D1 is suitable for recording radiation *after it has passed through a wall part of the container*, claim 17 is also not new.

- 3 **INDEPENDENT CLAIM 19**
 - 3.1 The present application does not meet the criteria of Article 33(1) PCT, because the

subject-matter of claim 19 does not involve an inventive step in the sense of Article 33(3) PCT.

- 3.2 Document D1 discloses (the references in parentheses applying to this document): Method for detecting the possible presence of contamination of a container (Column 1, lines 8-12) with a decorative exterior (Column 6, lines 22-28), for liquids such as a drink such as beer, comprising steps for:
- irradiating the container with radiation with at least a first wavelength by means of irradiating means (Column 4, lines 37-42),
 - determining the orientation of the container relative to first recording means (Column 6, lines 40-43),
 - recording by means of recording means a radiation sample of the radiation (Column 4, lines 27-29),
 - determining the possible presence of contamination by comparing the sample to a predetermined reference matching the orientation of the container relative to the recording means (Column 6, lines 38-39),
 - approving or rejecting the container (Column 6, lines 30-34).
- 3.3 The subject-matter of claim 19 therefore differs from this known D1 in that: the radiation has passed through at least a part of the container.
- 3.4 The problem to be solved by the present invention may therefore be regarded as how to detect contamination at the inner side of the container.
- 3.5 The solution proposed in claim 19 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT) for the following reasons:
Document D2 (EP1241467) also uses radiation which has passed through the container to be inspected, to detect the presence of contamination at the inner side of the container.
- 3.6 The skilled person would therefore regard it as a normal option to include this feature in the method described in document D1 in order to solve the problem posed.

4 DEPENDENT CLAIMS 2-16, 18, 20-23

- 4.1 Dependent claims 2-16, 18, 20-23 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT), see documents D1-D5 and the corresponding passages cited in the search report.